



Ninety-Ninth Legislature - First Session - 2005
Committee Statement
LB 132

Hearing Date: February 1, 2005

Committee On: Agriculture

Introducer(s): (Cunningham, Burling, Connealy, Preister)

Title: Provide for a waiver under the Nebraska Pasteurized Milk Law

Roll Call Vote – Final Committee Action:

Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

Vote Results:

7 Yes Senator(s): Kremer, Wehrbein, Preister, Burling, Cunningham,
Erdman, Fischer

No

Present, not voting

1 Absent Senator(s): Chambers

Proponents:

Senator Doug Cunningham
Terry Johnson
Mark Kvam
Krista Dittman
Lisa Hare
Kelly Bruns
Ann Gotschall
James Murphy Jr
Kay Morrill
Mary Beth Clark
Vern Jantzen
David Wetzell
Martin Kleinschmit
Terry Gompert

Representing:

Introducer
Self & Knox County Development Agency
Self – Milk Producer
Self
Self
Self
Self
Self
Self
Nebraska Farmers Union
Self & Dairy Group
Center for Rural Affairs
Knox County Extension Educator

Opponents:

Steve Taylor
Julie Albrecht
Laurie Keeler
Brad Schulz
Cap Dierks

Representing:

University of NE, Food Processing Center
University of Nebraska
University of NE, Food Processing Center
NE Dairy Industry Review Board
NE Veterinary Medical Association

Neutral:

Representing:

Summary of purpose and/or changes:

LB 132 provides for a second tier of exemption from requirements of the Nebraska Pasteurized Milk Law that milk in final consumer packaging be pasteurized. Current law prohibits the commercial promotion and retail distribution of raw (un-pasteurized) milk but does allow farm direct sales of raw milk by any grade of dairy to a final consumer if the customer initiates the contact, acquires the milk at the farm, and obtains only enough for his or her immediate household consumption. Under LB 132, dairies meeting Grade A standards would be authorized to advertise and deliver to customers. The bill also authorizes the Dept. of Agriculture to waive a requirement for mechanical filling and capping if it is shown that an alternative method achieves the same public health objective.

Section by Section Summary:

Section 1: Amends §2-3901 to include new sections 2 and 4 within the Nebraska Pasteurized Milk Law and adopts additional license discipline actions that may be taken by the Department. Declares that state law governs in case of conflict between the Nebraska Pasteurized Milk Law and incorporated publications.

Section 2: Inserts a new section within the Nebraska Pasteurized Milk Law introducing a new term, “raw milk not intended for pasteurization.” This is defined as milk and cream sold directly to a final consumer without pasteurization or that will not be used for manufacturing purposes.

Section 3: Amends §2-3903 primarily to establish a second tier of exemption from the PMO requirement of pasteurization if for direct sales of raw milk not intended for pasteurization that allows for advertising and delivery to customers.

- The amendments to existing subsection (3) of this section first clarify that the existing exemption for direct sales of raw milk applies only to those who do not wish to advertise or deliver to customers.
- Adds a new subsection (4) to authorize dairies permitted pursuant to the Nebraska Pasteurized Milk Law (i.e. grade A dairies) to sell directly to customers. Those dairies meeting grade A standards would also be allowed limited ability to solicit customers and to deliver directly to the consumer. The new subsection (4) would impose the following standards:
 - a. Milk to be sold directly to consumers as raw milk is to be separated and handled in facilities apart from other milk operations and facilities. That portion of milking facilities used for handling milk intended for processing may not be used for bottling, storage or store fronts for milk diverted for directly marketed raw milk.
 - b. Raw milk may not be sold to or offered for sale in venues such as farmers markets, or at any food establishment as defined by the Pure Food Act and other listed categories of food service establishments.

- c. Records of sales of raw milk are to be kept for 1 year with information to be retained prescribed
 - d. Requires prepackaged raw milk to disclose that unpasteurized milk poses a heightened health risk and identify segments of the population that are particularly vulnerable, as well as basic pasteurizing instructions. The package shall be labeled with the common name of the product and bear the name and address of the producer.
 - e. Labeling claims may only include health claims reviewed and approved by the Food and Drug Administration. Labeling includes internet pages, pamphlets, and point of sale literature.
- Adds a new subsection (6) to permit Grade A dairies to carry out milking operations and packaging and other activities associated with direct sale activities under a single permit. (i.e. waives necessity for separate milk plant permit.) This exemption applies only if the dairy engages only in intrastate sales.

Section 4: Authorizes the Department of Agriculture to waive a requirement for mechanical filling and capping if an alternative method is approved. This waiver applies only if the packaged product is sold intrastate. A milk plant obtaining the waiver shall not be included in a registry of approved for interstate milk shippers.

Section 5: Repealers

Explanation of amendments, if any:

The committee amendment adds a clarification that direct sales of raw milk are permissible if solely for the customer's personal consumption. The amendment also adds to the bill's existing requirement that raw milk labeling may not state health claims that are not approved by FDA by also prohibiting labeling that is otherwise false or misleading.

Senator Bob Kremer, Chairperson